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ONE HUNDRED EIGHTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

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March 28, 2003

Honorable Howard Coble  
Chairman, Subcommittee on Crime,  
Terrorism and Homeland Security  
Committee on the Judiciary  
U.S. House of Representatives  
207 Cannon House Office Bldg.  
Washington, DC 20515

Dear Chairman Coble:

We are writing to you regarding H.R. 21, the "Unlawful Internet Gambling Funding Prohibition Act," which was introduced by Rep. Leach, and which was referred to the House Committee on Financial Services and sequentially to the Committee on the Judiciary. The Financial Services Committee marked up the bill on March 13, and it has been reported that the Judiciary Committee intends to consider this bill on an expedited schedule.

We request that the Judiciary Committee exercise its right to a sequential referral of H.R. 21, and that the regular order be followed, including holding a hearing, subcommittee markup, and full committee markup. We also request that the Committee consider H.R. 1223, the "Internet Gambling Licensing and Regulation Commission Act," which Rep. Conyers introduced on March 12.

Gambling law and enforcement have been within the jurisdiction of the Judiciary Committee since this Committee was created. We applaud Chairman Sensenbrenner's efforts to prevent erosion the Judiciary Committee's jurisdiction, and we urge you to ensure that the Financial Services Committee does not encroach on jurisdiction that this Committee has fought hard to protect in the past.

H.R. 3215 in the 107<sup>th</sup> Congress. As of yet, H.R. 21 has never been the subject of a hearing or markup in *any* Committee.

Second, during the Judiciary Committee's consideration of H.R. 3215 in the 107<sup>th</sup> Congress, the Committee resoundingly voted against picking and choosing among different types of Internet gambling. As you recall, although the original bill singled out certain gambling industries for special treatment, the Committee overwhelmingly adopted amendments to strike those carve-outs. H.R. 21 contains exemptions that are similar in scope to those that the Committee rejected in the 107<sup>th</sup> Congress. For example, H.R. 21 exempts from the definition of "bets or wagers" "any lawful transaction with a business licensed or authorized by a State."<sup>1</sup> The Committee should have the opportunity to work its will on H.R. 21 in the same fashion that the Committee reviewed H.R. 3215 in the 107<sup>th</sup> Congress.

Third, it is increasingly unclear what the effects of H.R. 21 would be, and how law enforcement would be impacted. Among other things, H.R. 21 prohibits individuals from using a credit card or other financial instruments to make "unlawful" Internet gambling wagers. Supporters of H.R. 21 argue that the bill is needed to help law enforcement crack down on money laundering by terrorists and other criminal enterprises. Yet, a persuasive case can be made that H.R. 21 will actually make it *more difficult* for law enforcement to prevent money laundering because people will simply use cash and offshore bank accounts to conduct their Internet gambling activities. The question of the bill's impact on law enforcement falls squarely within the Judiciary Committee's jurisdiction, and has never been addressed in the Committee's previous hearings or markups.

Fourth, a recent decision by the Court of Appeals for the Fifth Circuit has raised significant questions about the scope and breadth of the Wire Act,<sup>2</sup> the primary federal criminal statute that addresses interstate wagers. Last year, the Fifth Circuit held that the Wire Act applies only to sports wagering – not casino-style or other types of gambling – as the Department of Justice has maintained, and continues to maintain.<sup>3</sup> The legal ambiguity surrounding the Wire Act is exacerbated by H.R. 21, which simply prohibits the use of a credit card or other financial instruments to participate in "unlawful" Internet gambling.

Fifth, the Internet gambling landscape is changing. While it is true that at one time, the majority of dollars wagered online were processed at servers in the Caribbean, licensing regimes

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<sup>1</sup>H.R. 21, Sec. 3(b)(1)(E)(ix).

<sup>2</sup>18 U.S.C. § 1084.

<sup>3</sup> *Thompson v. Mastercard Int'l Inc.*, 313 F.3d 257 (5th Cir. 2002).

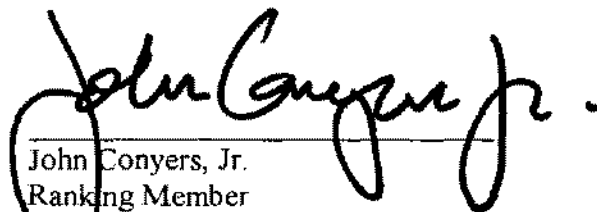
in Canada, the U.K., and Australia are rapidly overtaking the Carribean operations. Large U.S. gaming companies such as MGM-Mirage and Station Casinos are now accepting Internet bets on the Isle of Man in the United Kingdom.

U.S. states and territories are proceeding with plans in this area as well. Nevada has passed a bill authorizing its gaming commission to promulgate regulations for licensing the acceptance of on-line wagers; however, the commission largely abandoned its efforts after receiving a letter from the Department of Justice saying that this would violate the Wire Act. (The Department issued this letter prior to the Fifth Circuit ruling referenced above.) New Jersey is expected to pass similar legislation this year, and the U.S. Virgin Islands are in the process of licensing companies to accept Internet wagers. It is not clear how the Leach bill would affect these State and Territorial efforts.

Finally, we also ask that the Committee consider H.R. 1223, which Rep. Conyers introduced. This bill would establish a national Internet Gambling Licensing and Regulation Study Commission to examine whether issues such as money laundering, underage gambling, and problem gamblers are better addressed through ineffective attempts to prohibit Internet gambling or by a system where the States can choose to license and regulate online gaming with strict controls. We believe H.R. 1223 will provide important new perspectives on the Internet gambling industry that have not yet been examined by the Judiciary Committee.

In light of all the foregoing, we urge you to protect this Committee's prerogatives and seek a sequential referral period which is sufficient for us to examine all of these issues.

Sincerely,



John Conyers, Jr.  
Ranking Member  
Committee on the Judiciary



Robert C. Scott  
Ranking Member  
Subcommittee on Crime, Terrorism,  
and Homeland Security